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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,723	04/09/2004	Denis Marchand	15616-16US	9005

20988 7590 03/21/2005
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EXAMINER

NELSON JR, MILTON

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/820,723

Applicant(s)

MARCHAND ET AL.

Examiner

Milton Nelson, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14, 16-18, 20 and 34-36 is/are allowed.
- 6) ☐ Claim(s) 15 and 21-33 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/9/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

The information referred to in the information disclosure statement filed April 9, 2004 has been considered.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it includes reference to the "invention". Correction is required.

The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded

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hyperlink and/or other form of browser-executable code. Note in paragraph 0003 on page 1.

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because it appears to lack the inventor's signature.

Double Patenting

Claim 19 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 5. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 15, 21-31 and 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 15, "said buttock muscles and ischial tuberosities of a user" lack proper antecedent basis. In claim 21, it is unclear if Applicant intends to positively claim the combination of a seating device and a floor, or the subcombination of a seating device for use with a floor. Lines 1 to 2 of independent claim 21 appear to set forth the subcombination. Note the recitation of a seating device comprising "a receiving element adapted to be fixed to a floor". Lines 3 to 4 of claim 21 appear to set forth the combination. Note the recitation of the receiving element "first portion defining said internal bore, said first portion being inserted in an aperture defined with said floor". Lines 5 to 6 also appear to set forth the combination. Note the recitation of the receiving element "second portion connected to said first portion, said second portion being secured to said floor". Similarly note claims 23 and 24.

Clarification in the claim language is required. In claim 22, "said second portion" lacks proper antecedent basis. In claim 23, "said second portion" lacks proper antecedent basis. In claim 25, it appears that Applicant is positively claiming a user. Note the recitation "that a user's feet are upwardly extending". It is suggested that appropriate "adapted to" type language be added to the claim. In line 7 of claim 26, it is unclear if "said one end portion" is intended to be the same feature as the previously set forth "an end portion". In line 11 of claim 26, "said first portion" lacks proper antecedent basis. Claims 27-31 are indefinite since each depends from an indefinite claim. In claim 33, it is unclear if Applicant intends to positively claim the combination of a seating device and

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an aperture in a floor, or the subcombination of a seating device for insertion into an aperture in a floor. Lines 1-3 appear to set forth the subcombination. Note the recitation "a seating device comprising a seat, a tilting stem and a base, the improvement comprising said base being dimensioned to be inserted in an aperture defined in a floor". Lines 3 to 4 appear to set forth the combination. Note the recitation "said base is rotatably and releasably inserted in said aperture". Clarification in the claim language is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 32 is rejected under 35 U.S.C. 102(b) as being anticipated by Degen (5044587). Note the seat (4), tilting stem (5), base (1), at least one stop (represented by 9, 16, 17), and angle of 30 degrees or less (note Figure 1).

Claim 33, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 102(b) as being anticipated by Haywood (6033016). Note the seat (10), tilting stem (11), base (16), wherein the base is rotatable (about a vertical axis) and releasable from an aperture.

Allowable Subject Matter

Claims 1-14, 16-18, 20 and 34-36 are allowed.

Claims 15, 21-25, and 27-31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 26 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. A ground insertable stool is shown by Morton, Jr (5673966). Bragg (1161604) shows a stool having a single leg. A tilting seat assembly is shown by each of Anders (6679554) and Gonzalez y. Rojas (4183579). A tiltable support structure is shown by each of Speece et al (5927677) and Meyer (6273390).

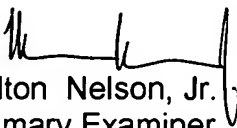
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is 7033082117 (currently) or 5712726861 (after April 7, 2005). The examiner can

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normally be reached on Monday-Wednesday 5:30-3:00, and alternate Fridays 5:30-3:00.

fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Milton Nelson, Jr.
Primary Examiner
Art Unit 3636

mn
March 14, 2005